

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey Graetz	Team: Bias Squad #02	CCRB Case #: 202301727	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/16/2023 4:13 PM, Wednesday, 10/04/2023 12:00 AM, Thursday, 10/05/2023 12:00 AM	Location of Incident: Humboldt Street and Maujer Street; 100 Church Street	18 Mo. SOL 8/16/2024	Precinct: 90		
Date/Time CV Reported Thu, 02/16/2023 11:56 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/28/2023 9:27 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Michael Crichlow	20395	960083	090 PCT
2. PO Cecely Beniquez	12351	960232	090 PCT
3. PO Jesse Trap	10734	960033	084 PCT
4. An officer			

Officer(s)	Allegation	Investigator Recommendation
A . PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow questioned Individuals.	
B . PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow questioned § 87(2)(b)	
C . PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap questioned individuals.	
D . PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap questioned § 87(2)(b)	
E . PO Jesse Trap	Force: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap used physical force against § 87(2)(b)	
F . PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap frisked § 87(2)(b)	
G . PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap stopped § 87(2)(b)	
H . PO Jesse Trap	Force: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I . PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow frisked an individual.	
J . PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow stopped an individual.	
K . An officer	Off. Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer made remarks to Individuals based upon race.	
L . An officer	Off. Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon race.	
M . An officer	Discourtesy: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer spoke discourteously to individuals.	
N . An officer	Discourtesy: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer spoke discourteously to § 87(2)(b)	
O . PO Cecely Beniquez	Off. Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Cecely Beniquez made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
P . An officer	Off. Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
Q . PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow improperly used his body-worn camera.	
R . PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap improperly used his body-worn camera.	
S . PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow failed to provide an individual with a business card.	
T . PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	

Officer(s)	Allegation	Investigator Recommendation
Y . PO Jesse Trap	Untruthful Stmt.: On October 04, 2023, at 100 Church Street in Manhattan, Police Officer Jesse Trap provided a false official statement to the CCRB.	
Z . PO Michael Crichlow	Untruthful Stmt.: On October 05, 2023, at 100 Church Street in Manhattan, Police Officer Michael Crichlow provided an inaccurate official statement to the CCRB.	
AA. PO Michael Crichlow	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow took law enforcement action based upon actual or perceived age, and race of an individual.	
AB. PO Jesse Trap	Abuse: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap took law enforcement action based upon actual or perceived age, and race of § 87(2)(b)	

Case Summary

On February 16, 2023, § 87(2)(b) filed this complaint with IAB on behalf of her son § 87(2)(b) who was 14 years old at the time (BR 01). The complaint was forwarded to the CCRB on February 28, 2023.

On February 16, 2023, at around 2:30 p.m. or 4:15 p.m.,¹ § 87(2)(b) and five friends walked from the McDonalds on Grand Street to a corner store at the intersection of Humboldt Street and Maujer Street in Brooklyn. While § 87(2)(b) and his friends were standing outside the corner store, they saw an unmarked car with officers drive by. § 87(2)(b) believed he had seen the same car drive by the group as they left McDonalds. When the car drove by the group at the corner of Humboldt Street and Maujer Street again, one of § 87(2)(b) friends said “are y’all bored?” and the car stopped. Police Officer Jesse Trap, Police Officer Michael Crichlow, and Police Officer Beniquez – all of the 90th Precinct – got out of the car and approached the group. PO Crichlow allegedly asked the group what happened and if they lived there (**Allegations A-B: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Trap allegedly asked § 87(2)(b) and his friends what they were doing and if they “had something or something like that” (**Allegations C-D: Abuse of Authority**, § 87(2)(g) § 87(2)(b)

PO Trap walked up to § 87(2)(b) and pushed § 87(2)(b) right arm, which was in a sling, and pushed § 87(2)(b) against a gate (**Allegation E: Force**, § 87(2)(g) § 87(2)(b) While grabbing § 87(2)(b) arm with one hand, PO Trap used his other hand to grab § 87(2)(b) vest pockets (**Allegations F-G: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Trap took a step back and then approached § 87(2)(b) again and touched his right arm and pushed him back against the gate (**Allegation H: Force**, § 87(2)(g) § 87(2)(b) PO Trap allegedly stretched § 87(2)(b) right hand, which was in a sling, open. During PO Trap’s first approach of § 87(2)(b) PO Crichlow approached one of § 87(2)(b) friends and patted him down (**Allegations I-J: Abuse of Authority**, § 87(2)(g) § 87(2)(b)

At some point during the interaction, one of the officers allegedly said § 87(2)(b) and his friends “looked like drug dealers” (**Allegations K-L: Offensive Language**, § 87(2)(g) § 87(2)(b) **Allegations M-N: Discourtesy**, § 87(2)(g) § 87(2)(b) PO Beniquez allegedly called § 87(2)(b) a “faggot” at the end of the interaction (**Allegation O: Offensive Language**, § 87(2)(g) § 87(2)(b) and an unidentified officer said “oh what are you, gay? You want a man to suck your dick?” to § 87(2)(b) § 87(2)(b) (**Allegation P: Offensive Language**, § 87(2)(g) § 87(2)(b)

PO Crichlow and PO Trap improperly failed to activate their BWCs despite frisking § 87(2)(b) and another individual (**Allegations Q-R: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Trap and PO Crichlow also failed to give a business card to § 87(2)(b) and the other individual who was frisked (**Allegations S-T: Abuse of Authority**, § 87(2)(g) § 87(2)(b), § 87(4-b) § 87(2)(b)

During his CCRB interview on October 4, 2023, PO Trap made a false official statement that he did not conduct any frisk of § 87(2)(b) and that the only force he used against § 87(2)(b) was to guide him and the rest of his friends toward the train (**Allegation Y: Untruthful Statement**, § 87(2)(g) § 87(2)(b)

¹ The surveillance video of the incident is timestamped 2/16/2023 16:13 when the officers get out of their car (BR 02). However, § 87(2)(b) testified that this incident happened at around 2:30 p.m. (BR 04), and PO Crichlow also testified that § 87(2)(b) called the Precinct at around 3:00 p.m. to speak with PO Crichlow after the incident (BR 06).

§ 87(2)(g) PO Trap refused to amend this testimony after viewing surveillance video of the incident.

During his CCRB interview on October 5, 2023, PO Crichlow made an inaccurate statement that he did not conduct a “full frisk” of § 87(2)(b) friend and was therefore not required to document the frisk or alleged consent to frisk in any manner (**Allegation Z: Untruthful Statement**, § 87(2)(g)).

It is alleged that PO Crichlow and PO Trap took enforcement actions against § 87(2)(b) and § 87(2)(b) friend at least in part due to their perceived race as Black and their perceived youthful age (**Allegation AA: Abuse of Authority**, § 87(2)(g)) (**Allegation AB: Abuse of Authority**, § 87(2)(g)).

No arrests were made or summons issued as a result of this incident.

The investigation did not obtain any body-worn camera footage (**BR 08**), but did obtain surveillance video of the incident (**BR 02**), as well as video of a call between PO Crichlow and § 87(2)(b) stepfather – and § 87(2)(b) (**BR 03**). PO Crichlow confirmed that the call captured in this video occurred the night of the incident, February 16, 2023 (**BR 06**).

Findings and Recommendations

Allegation (A) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow questioned individuals.

Allegation (B) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow questioned § 87(2)(b)

Allegation (C) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap questioned individuals.

Allegation (D) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap questioned § 87(2)(b)

§ 87(2)(b) testified that when he and five of his friends left the McDonalds on Grand Street, they saw a grey Ford with tinted windows drive by (**BR 04**). § 87(2)(b) saw uniformed officers inside the car staring at him and his friends. § 87(2)(b) and his friends walked two blocks to a corner store at the intersection of Humboldt Street and Maujer Street. After being at the store for about five minutes, § 87(2)(b) saw the same unmarked car with officers drive by Maujer Street and turn right onto Graham Avenue. A few minutes later, the same car drove by again. PO Crichlow was sitting in the front passenger seat and appeared to be specifically staring at and watching § 87(2)(b) and his friends. One of § 87(2)(b) friends said “are y’all bored?” as the police car was passing. § 87(2)(b) and his friends did not think the officers would hear them. The car pulled up to the corner of Maujer Street and Humboldt Street and PO Trap, PO Crichlow, and PO Beniquez got out of the car. As the officers got out of the car, PO Crichlow said “yeah, we bored. What happened?” At some point during the interaction with police officers, § 87(2)(b) is not sure when, one of the officers said § 87(2)(b) and his friends “looked like drug dealers.”

As discussed in greater detail in the analysis of Allegations AA-AC below, all officers described being on a school dismissal assignment on February 16, 2023, during which they had been instructed to direct groups of young people congregating near school after school was let out to keep moving due to recent shootings in the area (**BR 05-07**).

In the phone conversation between § 87(2)(b) § 87(2)(b) stepfather) and § 87(2)(b) and PO Crichlow, recorded the night of the incident, PO Crichlow said § 87(2)(b) and his friends

were sitting on a stoop on someone's property that "they didn't belong on," looking in the door (**BR 03**). The officers went around the block, and when they came back around the block, § 87(2)(b) and his friends were on the sidewalk. § 87(2)(b) friend said "what, are y'all niggas bored?" PO Crichlow got out of the car and went to § 87(2)(b) friend and said "Yes, I am bored, and now I'm talking to you. Did you live there?" PO Crichlow told § 87(2)(b) and § 87(2)(b) that § 87(2)(b) looked at PO Crichlow's partner and said "what, are y'all niggas dick riders?" PO Crichlow's partner responded, "woah, what are you guys doing? Y'all got something or something like that? What's this about?"

During his CCRB interview, PO Crichlow described seeing a group of school-aged children on Maujer Street (**BR 06**). PO Crichlow was in the front passenger seat and PO Trap was driving. PO Crichlow did not remember seeing this group at any time earlier in his tour. PO Crichlow did not remember what the group was doing when he initially observed them, but the officers decided to circle the block and come back to the group. PO Crichlow did not remember why they decided to circle the block instead of getting out and speaking to the group when they first saw them. Hearing himself say on the phone with § 87(2)(b) that he saw a group on a stoop looking in a door did not refresh PO Crichlow's memory of seeing that. PO Crichlow did not recall how long the officers observed the group before deciding to circle the block. The second time PO Crichlow saw the group, after circling the block, one of the kids said something along the lines of "y'all n-words must be bored" or something along those lines. PO Crichlow, PO Trap, and PO Beniquez got out of the car to speak with the individual who had spoken to them like that and to tell everyone in the group that a kid had recently been shot in that area and they had to move along. PO Crichlow believed that if the kid had not said something about them being "n-words" and "bored," the officers would have kept driving and not gotten out of the car.

Other than explaining why the officers were there and asking the kids to move along, PO Crichlow did not remember anything he said or what other officers said after getting out of the car to approach the group. PO Crichlow did not recall if he asked or heard anyone ask if any individual lived there or "what happened." PO Crichlow did not speak to § 87(2)(b) at all. PO Crichlow did not recall hearing another officer respond to § 87(2)(b) by saying "what are you guys doing? Y'all got something or something like that? What's this about?" PO Crichlow did not know who he was referring to on the phone call with § 87(2)(b) and § 87(2)(b) when he said his "partner" said that to § 87(2)(b). PO Crichlow would consider anyone working in the 90th Precinct as his partner because they all work together. The term "partner" is not limited to who PO Crichlow is working with that day. There were other officers present during this interaction, but PO Crichlow did not remember who they were or if they were from the 90th Precinct. PO Crichlow could not identify the uniformed officers captured on the surveillance video other than PO Trap, PO Beniquez, and himself.

PO Crichlow did not suspect any criminal activity or any weapons as he approached the group (**BR 06**). PO Crichlow noted that although he could not tell what the individuals were carrying because of their jackets, he would not have assumed they had weapons and did not see anything from the car that caused him to suspect anyone in the group had a weapon.

PO Beniquez described seeing a group of about 8-9 youths standing on a stoop of a gated residential building that is three or four floors tall (**BR 07**).² Some individuals were on the sidewalk and some individuals were on the stoop, with possibly two or three individuals looking into the building through the windows. PO Beniquez does not remember if she had seen this group earlier. PO Beniquez could not say how long she observed the group. Everyone in the group looked young, possibly high school students, and some were carrying backpacks and/or schoolbooks. PO Beniquez did not remember

² PO Beniquez identified this stoop as the first or second visible area behind the gate at the upper center of the surveillance video image at time stamp 0:05.

having a conversation about the group on the stoop with PO Trap and PO Crichlow but thought it was likely she would have said the officers should tell the group to disperse because of the violence at the school. No one should be congregating in that area. The officers circled the block and the group had moved to the sidewalk in front of the building.

PO Beniquez, PO Trap, and PO Crichlow got out of the car to tell the group congregating in front of the gate in front of the residential building to disperse (**BR 07**). Telling this group to disperse would be routine on the school dismissal assignment. PO Beniquez could not remember specifically what was said in this incident, but the officers are always questioned when they approach groups and routinely explain that someone had been shot and that there was a surge of violence around the schools. Other than generally talking about the recent shooting and telling the group to disperse and go home, PO Beniquez did not remember what she said to this group. PO Beniquez could not say anything specific that the individuals here said other than that they were cursing at the officers.

PO Beniquez did not remember asking or hearing another officer ask (1) if any of the individuals lived in any of these buildings, (2) “what happened,” or similar questions, or (3) “what are you guys doing, y’all got something or something like that? What’s this about?” PO Beniquez did not see anything that made her suspect any of the individuals had anything illegal, otherwise she would have questioned them and/or touched them. No officer told PO Beniquez that they saw a bulge or saw anything suspicious. PO Beniquez did not suspect any criminal activity (**BR 07**).

PO Trap had little to no independent recollection of this incident (**BR 05**). PO Trap did not recall any specific questions asked or statements made. Based on the surveillance video without audio and PO Trap’s memory of the school dismissal assignment he was on that day, PO Trap believes he told the group to keep moving and that they could not hang out there. PO Trap does not recall asking any civilians any questions during this interaction. PO Trap does not believe any civilian was asked if they lived there. PO Trap did not ask if they “had something.” PO Trap did not suspect any individual had anything illegal on their person. PO Trap did not have any suspicion of any criminal activity or possession of weapons.

§ 87(2)(b) provided the investigation with surveillance video that captures this incident from time stamps 3:30-4:45 (**BR 02**). PO Crichlow, PO Trap, and PO Beniquez can be seen approaching and speaking to § 87(2)(b) and his group of friends. However, the surveillance video does not have audio of the incident and therefore is not helpful with any allegations regarding what was said or asked by officers. There were negative results for any BWC of the incident (**BR 08**), and the investigation was unable to otherwise acquire any audio recording of this interaction.

A silver sedan that looks like the unmarked cars the officers were driving passes at time stamps 0:57-1:11 and 1:37-1:45, possibly reflecting the officers passing the group before circling back to the group at time stamp 3:30 (**BR 02**). The stoop where some members of the group might have been standing is mostly out of view of the camera, but the bottom of legs can be seen within a gate, and a teenager walks from out of the gate and into frame at 1:16. A young person can be seen sitting on the steps at 1:39, and then that young person and another young person walk out of the gate toward the group at 1:44. One of those individuals walks back onto the stoop at 2:05 and then back to the group at 2:48.

Patrol Guide Procedure 212-11 (**BR 09**) states that officers may request information from a civilian, or conduct a Level 1 encounter, if the officer has an objective credible reason to approach the civilian. “The objective of this encounter is to gather information and not to focus on the person as a potential suspect.” Officers may only ask accusatory questions as part of a common law right of inquiry (a Level 2 encounter) based on “founded suspicion that criminal activity is afoot.” Founded suspicion is a lower level of suspicion than “reasonable suspicion” required to conduct a stop or Level 3 encounter.

Founded suspicion is defined as “some present indication of criminality based on observable conduct or reliable hearsay information.” The encounter levels, including the common-law right to inquire activated by a founded suspicion, are established by *People v. De Bour*, 40 N.Y.2d 210 (1976) (BR 10).

PO Beniquez, PO Crichlow, and PO Trap each testified that they had no suspicion of criminal activity. The officers all testified that one reason they approached the civilians was their assignment to disperse congregating groups of school-aged children near the school. PO Beniquez and PO Crichlow testified to an absence of suspicion of criminal activity despite PO Beniquez’s memory that a couple of individuals might have been looking into a residential building and PO Crichlow’s similar statements on his recorded call with § 87(2)(b) and § 87(2)(b). All officers testified that the group was not on any stoop or looking through a window by the time the officers approached them. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Crichlow stated in his call with § 87(2)(b) and § 87(2)(b) that he asked § 87(2)(b) and his group of friends if they lived “there,” possibly referring to the nearby property they were standing nearby. The investigation credits PO Crichlow’s statements made in this phone call because they were made only a few hours after the incident when his memory was fresh. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Similarly, § 87(2)(b) alleges PO Crichlow asked the group “what happened?” after one of his friends asked if the officers were bored. PO Crichlow testified that one reason the officers stopped was to address the individual who yelled “are y’all niggas bored?” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) statement that an officer accused him and his friends of being drug dealers, analyzed in Allegations K-N, combined with PO Crichlow’s statement to § 87(2)(b) and § 87(2)(b) that an officer had asked the group if they “got something or something like that?,” § 87(2)(g)

§ 87(2)(g)

PO Crichlow told § 87(2)(b) that his “partner” asked a question about the group having something. Although PO Crichlow testified that he could have been referring to any police officer as his “partner,” the investigation determines it is more likely than not that PO Crichlow was referring to PO Trap as his partner who made these comments. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), indicating his suspicion that at least § 87(2)(b) had something illegal on his person. In addition, PO Crichlow referred to “a female on [his] team” shortly after describing what his “partner” said, indicating that PO Beniquez was not the partner he was referring to. Finally, it is very unlikely that PO Crichlow would have been referring to one of the unidentified uniformed officers as asking this question not only because he did not know who they were, but also because those officers do not appear until almost a minute into the interaction, and only one is seen speaking to the group, and that is after PO Crichlow has already walked away.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Force: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap used physical force against § 87(2)(b)

Allegation (F) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap frisked § 87(2)(b)

Allegation (G) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap stopped § 87(2)(b)

Allegation (H) Force: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap used physical force against § 87(2)(b)

§ 87(2)(b) testified that PO Trap immediately approached § 87(2)(b) after getting out of the unmarked car (BR 04). § 87(2)(b) took a couple of steps backward. PO Trap pushed § 87(2)(b) right arm, which was in a sling due to a hand surgery § 87(2)(b) had the day before, and pushed § 87(2)(b) against a gate that is next to the corner store. PO Trap grabbed § 87(2)(b) right arm near his wrist and held his right arm against his body above his vest pockets. PO Trap used his other hand to grab the outside of both of § 87(2)(b) vest pockets. § 87(2)(b) said he did not have anything on him. PO Trap never said why he was touching § 87(2)(b). PO Trap took a step back and then quickly walked up to § 87(2)(b) again and started touching § 87(2)(b) right arm and wrist area again. PO Trap pushed § 87(2)(b) backwards against the gate again. At some point while PO Trap was touching § 87(2)(b) his right hand was stretched wide open which caused him a lot of pain. While PO Trap was touching § 87(2)(b) he and another friend told officers that § 87(2)(b) had had surgery on his hand and that § 87(2)(b) was only 14 years old. No officer responded to these statements.

PO Trap had no independent recollection of this incident (BR 05). After being shown surveillance video of the interaction, PO Trap said the contact between § 87(2)(b) and him shown in this video depicted PO Trap guiding the group toward the direction of the train. PO Trap denied frisking § 87(2)(b) or pushing § 87(2)(b). PO Trap maintained that the video showed PO Trap going toward § 87(2)(b) hands to tell him to keep it moving when he was shown again the video of touching § 87(2)(b). PO Trap did not recall pushing § 87(2)(b) right arm, grabbing § 87(2)(b) arm near his wrist and using his other hand to grab § 87(2)(b) pockets, or pushing § 87(2)(b) against the gate. PO Trap did not recall approaching § 87(2)(b) again, touching his right arm and wrist area, and pushing him backwards.

PO Trap did not have any suspicion of anyone in this group having a weapon on their person. PO Trap did not have any suspicion of any criminal activity. PO Trap denied that any civilian was stopped during this interaction. Everyone was free to leave, and the officers were telling them to leave. PO Trap maintained that the only reason to touch § 87(2)(b) was to guide the group toward the train station. PO Trap testified that he used no force as he was merely guiding the individuals.

On his call with § 87(2)(b) PO Crichlow said the officers only talked to § 87(2)(b) (BR 03). During his CCRB testimony, PO Crichlow explained he did not see any other officer touch any individual during this interaction and he did not later speak with any officer about them touching any individual during this interaction (BR 06). PO Crichlow did not learn that PO Trap had touched a civilian until watching the video before his CCRB interview.

PO Beniquez denied that any civilians were stopped or detained in any way (BR 07). PO Beniquez saw PO Trap and PO Crichlow speak to and touch individuals on the video, but did not have an independent recollection of this. PO Beniquez did not talk with PO Crichlow and/or PO Trap about touching civilians.

At time stamp 3:30 of the surveillance video provided by § 87(2)(b) PO Trap gets out of the

The first alleged use of force and touching by PO Trap against § 87(2)(b) can be seen from time stamps 3:46-3:52 of the surveillance video. During this time, PO Trap grabs § 87(2)(b) vest pockets and uses his left hand to push § 87(2)(b) against a fence that is about two steps behind § 87(2)(b). § 87(2)(b) takes a step back when PO Trap starts grabbing his vest, but it is clear from the video that PO Trap's left arm pushes § 87(2)(b) against the fence. It cannot be seen from the video where on § 87(2)(b) person PO Trap pushes, and whether he pushed against § 87(2)(b) injured arm. Although the medical records provided to the investigation note that § 87(2)(b) was still in pain § 87(2)(b) after his hand surgery, they do not indicate whether § 87(2)(b) preexisting injuries were exacerbated by this interaction that took place § 87(2)(b) after his surgery. § 87(2)(g)

§ 87(2)(b) The video of the interaction refutes PO Trap's testimony that he only touched § 87(2)(b) to guide the group toward the direction of the train. § 87(2)(g)

As described above, PO Trap can be seen feeling and grabbing the outside of § 87(2)(b) vest pockets. This constitutes a frisk as defined in Patrol Guide Procedure 212-01. A reasonable person would not feel free to leave when an officer is grabbing their clothing and pushing them against a fence. § 87(2)(g)

§ 87(2)(b) alleges PO Trap pushed him against the gate a second time after touching his right arm and wrist area. PO Trap can be seen approaching § 87(2)(b) again at time stamps 3:57-4:01 (BR 02). PO Trap can be seen reaching with his right hand toward § 87(2)(b) steps backwards and appears to push back against PO Trap with his left arm. It cannot be seen if PO Trap makes contact with § 87(2)(b) as he is reaching towards him, and if so where. § 87(2)(g)

Allegation (I) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow frisked an individual.

Allegation (J) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow stopped an individual.

While PO Trap was touching § 87(2)(b) saw PO Crichlow approach one of § 87(2)(b) friends and touch him (BR 04). § 87(2)(b) did not give the name of his friend. § 87(2)(b) did not know where PO Crichlow touched his friend because § 87(2)(b) was paying attention to PO Trap.

On his call with § 87(2)(b) PO Crichlow said the officers only talked to § 87(2)(b) and his friends (BR 03).

PO Crichlow testified that he did not have any suspicion of criminal activity or weapons as he approached the group (BR 06). PO Crichlow noted that he could not tell what the individuals had on them because of their jackets, but he would not have assumed they had weapons and did not see anything from the car that made him believe any of them had a weapon. PO Crichlow first approached the individual who said "are y'all niggas bored" and explained why the officers were in the area.

PO Crichlow did not remember touching any civilian, but the surveillance video of the incident refreshed PO Crichlow's memory that he did touch an individual by patting the individual's jacket

pocket and patting the front of the individual's legs. PO Crichlow could not remember what happened, but he assumed the individual had something heavy in his pocket. PO Crichlow believed he probably observed something heavy in the individual's jacket pocket when he was close to him, which caused PO Crichlow to ask the individual if he had something and if he minded if PO Crichlow checked him. An observation of something heavy combined with the recent shooting and the fact that this individual said "are y'all n-words bored" would cause PO Crichlow to ask consent to search. PO Crichlow does not recall what was said in this interaction, but he normally asks somebody for consent before frisking them. PO Crichlow believes he received consent because he would not have frisked the individual if he had not received consent. PO Crichlow would have documented a consent to search if PO Crichlow had fully searched the individual, but PO Crichlow only felt the pockets of the individual. Because PO Crichlow did not go around the individual's waist, go into each pocket, or go into the individual's backpack, he did not fill out the consent to search form. PO Crichlow only felt the individual's cell phone in his pocket.

PO Trap had little to no independent recollection of this incident (**BR 05**). PO Trap was not paying attention to whether other officers were touching other civilians because he was not focused on them.

PO Beniquez denied that any civilians were stopped or detained in any way (**BR 07**). PO Beniquez saw PO Trap and PO Crichlow speak to and touch individuals on the surveillance video, but did not have an independent recollection of this. PO Beniquez did not talk with PO Crichlow and/or PO Trap about whether they touched civilians.

At time stamp 3:30 of the surveillance video provided by § 87(2)(b) PO Crichlow gets out of the front seat of the unmarked car and approaches an individual standing closest to the street wearing a grey hoodie and a black puff jacket or vest (**BR 02**). PO Crichlow can be seen speaking with that individual. At 3:48-3:54, after PO Trap has started touching § 87(2)(b) PO Crichlow frisks the individual's jacket pockets and pants. The individual's pockets do not appear to be weighted down, and at least the jacket pockets appear empty as PO Crichlow squeezes them.

The IAB conducted a parallel investigation of this incident in IAB Log § 87(2)(b) (**BR 12**). When interviewed by IAB investigators, PO Crichlow "stated that no stops were performed at the location and the individuals were told to clear the area because of the shootings that occurred. PO [Crichlow] stated that one individual did make derogatory remarks to the Officers but it[']s a common thing they encounter."

The investigation's request for a stop report at this location also yielded negative results (**BR 11**).

Under Patrol Guide Procedure 212-11 (**BR 09**), following *People v. De Bour*, 40 N.Y.2d 210 (1976) (**BR 10**), a Level 3 stop is "any encounter between a civilian and a uniformed member of service in which a reasonable person would not feel free to disregard the officer and walk away." An officer must have a particularized and objective basis for suspecting a person of criminal conduct to conduct a Level 3 stop. An officer may frisk a person during a Level 3 encounter if the officer has reasonable suspicion that the person is armed and dangerous. A frisk is a carefully limited running of the hands over the outside of a person's clothing feeling for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons.

Patrol Guide Procedure 212-11 also states that an officer may seek consent to search at a Level 2 encounter where the officer has a founded suspicion that criminality is afoot. Founded suspicion is defined as "some present indication of criminality based on observable conduct or reliable hearsay

information.” An officer is not permitted to seek consent to search at a Level 1 encounter when there is no suspicion of criminal activity.

PO Crichlow can be seen patting down and squeezing an individual's jacket pockets and touching the same individual's upper legs. As described above, PO Crichlow testified that he did not have any suspicion of criminal activity. Neither PO Crichlow's description of possibly seeing a heavy object on the individual who had cursed at the officers, nor any recent unrelated shooting would have been indications that this individual was engaged in any kind of criminal conduct. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (K) Offensive Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer made remarks to individuals based upon race.

Allegation (L) Offensive Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon race.

Allegation (M) Discourtesy: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer spoke discourteously to individuals.

Allegation (N) Discourtesy: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer spoke discourteously to § 87(2)(b)

Allegation (O) Offensive Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Cecely Beniquez made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

Allegation (P) Offensive Language: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

§ 87(2)(b) testified that at some point during the interaction, one of the officers said § 87(2)(b) and his friends “looked like drug dealers” (BR 04). As PO Trap, PO Crichlow, and PO Beniquez were getting back into their car, PO Beniquez called § 87(2)(b) a “faggot.” At that time, § 87(2)(b) was saying “crazy” things to the officers. § 87(2)(b) did not remember what he said, but he did not threaten the officers.

On the call with § 87(2)(b) and PO Crichlow the night of the incident, § 87(2)(b) said someone told § 87(2)(b) he looked like a criminal (BR 03). PO Crichlow said, “no one said anything or called your son any type of criminal.” PO Crichlow said, “nobody said, nobody called your son a faggot.” PO Crichlow said after § 87(2)(b) called the officers faggots and “dick riders,” all they did was “respond.” PO Crichlow told § 87(2)(b) the only thing an officer said was, “oh what are you, gay? You want a man to suck your dick?” PO Crichlow said the person who made those comments was not “even one of us on the public safety team.”

All officers denied saying or hearing another officer say that the group looked like criminals or drug dealers, asking § 87(2)(b) “oh what are you, gay? You want a man to suck your dick?” or calling § 87(2)(b) a “faggot.” (BR 05-07). No officer was able to identify any uniformed officer present for the interaction who was not on the public safety team.

Other than explaining why the officers were there and asking the kids to move along, PO Crichlow did not remember anything he said or what other officers said to the group (BR 06). When the officers got out of the car, an individual started cursing the officers out, saying derogative statements such as

“suck my dick” and “you niggas are gay,” “you must be faggots,” etc. From the video of his conversation with § 87(2)(b) and § 87(2)(b) PO Crichlow remembered somebody said something about § 87(2)(b) being gay, but he did not know who said it. PO Crichlow said it was a reactionary statement because § 87(2)(b) had said “suck my dick” to a man, and someone responded something like “you want another man to suck your dick then? That’s gay.” PO Crichlow knows this was said but does not know who said it. PO Crichlow does not know if it was an officer who said that statement or if it was a male or female voice who said that statement. PO Crichlow believed this was said when he, PO Beniquez, and PO Trap were going back to the car.

PO Beniquez did not call a civilian a “faggot” and did not hear any officer say that word (BR 07). PO Beniquez could not remember if any civilian said that word.

PO Trap had little to no independent recollection of this incident (BR 05).

§ 87(2)(b) provided the investigation with surveillance video that captures this incident (BR 02). PO Crichlow, PO Trap, and PO Beniquez can be seen approaching and speaking to § 87(2)(b) and his group of friends. However, the surveillance video does not have audio of the incident and therefore is not helpful with any allegations regarding what officers said. There were negative results for any BWC of the incident (BR 08), and the investigation was unable to otherwise acquire any audio recording of this interaction.

NYPD Patrol Guide Procedure 200-02 requires officers to maintain a higher standard of integrity than is generally expected of others and to treat every citizen with compassion, courtesy, professionalism, and respect (BR 17). Furthermore, officers should not use discourteous or disrespectful remarks regarding another person’s age, ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability, per NYPD Administrative Guide Procedure 304-06 (BR 18).

Under DAO-DCT Case Number 2014-12026, a police officer’s use of offensive language, unlike discourteous language, is “inexcusable under any circumstances,” even if the officer is in a stressful enforcement situation or interacting with a civilian who is directing harsh language at the officer (BR 19).

§ 87(2)(b) alleged an officer said he and his friends “looked like drug dealers,” and the night of the incident § 87(2)(b) told PO Crichlow an officer told § 87(2)(b) he looked like a criminal. All officers denied these statements were made. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Similarly, § 87(2)(b) alleges PO Beniquez called him a “faggot,” but all officers deny this was said. § 87(2)(g)

§ 87(2)(g)

Both in the call with § 87(2)(b) and § 87(2)(b) on the night of the incident and during his CCRB testimony, PO Crichlow recalled that an officer made some comment to § 87(2)(b) about being gay, allegedly in response to § 87(2)(b) statements that the officers should suck his dick. The investigation notes that in PO Crichlow’s phone call with § 87(2)(b) and § 87(2)(b) PO Crichlow said the officer who made this comment was not on the public safety team. The investigation was unable to identify the uniformed officers present who were not on the public safety team. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (Q) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow improperly used his body-worn camera.

Allegation (R) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap improperly used his body-worn camera.

Allegation (S) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow failed to provide an individual with a business card.

Allegation (T) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap failed to provide § 87(2)(b) with a business card.

§ 87(2)(g), § 87(4-b)

On PO Crichlow's call with § 87(2)(b) and § 87(2)(b) the night of the incident, PO Crichlow said he did not need to activate his BWC because the officers only talked to § 87(2)(b) **(BR 04)**.

In his CCRB interview, PO Crichlow testified that he is not required to document feeling the outside of an individual's pockets, as he is captured doing in the surveillance video of this incident, because that is not a "full frisk" **(BR 06)**. PO Crichlow understands a "full frisk" to be frisking the full body. PO Crichlow did not go all around the individual's waist for weapons or frisk the individual's full body, and PO Crichlow did not frisk the individual's bookbag here. PO Crichlow believes he is not required to document touching the front pants and jacket pockets of an individual unless he finds something like drugs or weapons. Nothing was found here. PO Crichlow did not fill out a stop and frisk report because he did not fully frisk the individual. If PO Crichlow had done a stop and frisk report, it would have been in his memo book. There was no need for a memo book entry because PO Crichlow did not fill out a stop report.

PO Crichlow did not activate his BWC because no enforcement action was taken. If PO Crichlow had to fill out a report or issue a summons, he would have been required to activate his BWC. If PO Crichlow's touching does not rise to the level of a report, it also does not rise to the level of BWC activation.

PO Crichlow did not give a business card to any individual. PO Crichlow did not remember why he did not give a business card here, but he knows he is required to give a business card if he conducts a stop. PO Crichlow did not consider this interaction to involve a stop.

PO Trap did not activate his BWC because at the time of this incident, he was only required to activate his BWC during an encounter PO Trap deemed as adversarial **(BR 05)**. PO Trap would not activate his

BWC when telling a group of kids to keep moving. PO Trap did not give any civilian a business card because all he did was tell the group to keep moving.

PO Beniquez did not activate her BWC because it was routine to speak with the public in this manner (**BR 07**). PO Beniquez would turn on her camera if she was conducting any investigative touching. PO Beniquez was not required to give a business card because the only thing she did was tell people to go home. If PO Beniquez had stopped any individual, PO Beniquez would have been required to give a business card.

There were negative results for any BWC of the incident (**BR 08**). Neither PO Trap nor PO Crichlow had a relevant memo book entry (**BR 13**). The investigation's request for a stop report at this location yielded negative results (**BR 11**).

Patrol Guide Procedure 212-123 requires officers to "record continuously, until investigative, enforcement, or other police action is concluded" (**BR 20**). "Police action" is defined as "[a]ny police service, as well as, law enforcement or investigative activity conducted in furtherance of official duties. Police action includes responding to calls for service, addressing quality of life conditions, handling pick-up assignments and any self-initiated investigative or enforcement actions such as witness canvasses, vehicle stops and Investigative Encounters."

Administrative Guide Procedure 304-11 (**BR 21**) and Administrative Code 14-174 (**BR 22**) state that officers are required to offer a business card to persons who have been stopped except in cases resulting in a summons or arrest.

Patrol Guide Procedure 212-11 (**BR 09**) requires officers to document all Level 3 encounters in a Stop Report. Officers are required to describe in their own words the circumstances that led to any frisk conducted, including the area searched. The Procedure also states that a frisk can be conducted without gaining consent to search only during a Level 3 encounter if the officer has reasonable suspicion that the person is armed and dangerous. An officer may seek consent to search at a Level 2 or Level 3 encounter, but the officer must document any consent to search in a consent search report. An officer must also document any Level 3 encounter in a memo book entry.

The investigation does not credit PO Crichlow's testimony that he is only required to document a "full frisk." There is no limiting language in the Patrol Guide differentiating a "full frisk" from a more limited frisk that would only involve patting down certain pockets. As described in the analysis of allegations F-G and I-J, PO Trap and PO Crichlow initiated investigative stop and frisks in this case. As such, they were required to activate their BWC and offer the frisked individuals a business card. They did not § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Allegation (Y) Untruthful Statement: On October 04, 2023, at 100 Church Street in Manhattan, Police Officer Jesse Trap provided a false official statement to the CCRB.

As described in the analysis of Allegations E-H, PO Trap maintained throughout his testimony to the CCRB that he did not frisk or push § 87(2)(b) (**BR 05**). After being shown surveillance video of the interaction, PO Trap said the contact between him and § 87(2)(b) shown in this video was PO Trap guiding the group toward the direction of the train. After being shown the video again, PO Trap

maintained that the video showed PO Trap going toward § 87(2)(b) hands to tell him to keep it moving.

When interviewed by IAB investigators in the parallel investigation, PO Trap “stated that no stops were performed at the location, neither was force used, the individuals were told to clear the area because of the shootings that occurred” (BR 12). PO Trap agreed with the summary of his IAB statement and testified that he would still describe the encounter this way after viewing the surveillance video (BR 05).

PO Trap can be seen grabbing § 87(2)(b) vest pockets and pushing § 87(2)(b) against a fence at time stamps 3:46-3:52 of the surveillance video provided by § 87(2)(b) (BR 02).

NYPD Administrative Guide 304-10 (BR 23) prohibits officers from intentionally making a false official statement. A false official statement is an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation in connection with which the statement was made. When an officer is afforded an opportunity to recollect with the benefit of credible evidence, and the member makes a statement consistent with the evidence, the officer’s prior statement could be considered misleading or inaccurate, but not a false statement.

In the parallel IAB investigation, PO Trap stated that no force was used and no stops were performed. Whether PO Trap conducted a stop and frisk and/or used any force are material facts in this investigation because § 87(2)(b) alleged an unlawful stop, frisk, and uses of force. It is not known whether PO Trap had the benefit of viewing any video of the interaction during the IAB investigation, but he declined to change his testimony after viewing the surveillance video before and during his CCRB interview. The video of this interaction clearly contradicts PO Trap’s assertion that he only reached toward § 87(2)(b) to move him toward the train as PO Trap can be seen grabbing § 87(2)(b) pockets and pushing him against a fence. § 87(2)(g)

Allegation (Z) Untruthful Statement: On October 05, 2023, at 100 Church Street in Manhattan, Police Officer Michael Crichlow provided an inaccurate official statement to the CCRB.

As described above in the analysis of Allegations I-J and Q-X, PO Crichlow maintained throughout his testimony that he did not conduct a “full frisk” of the individual when he patted the front pants area and jacket pockets because he did not go all around the individual’s waistband, fully frisk the individual’s body, or frisk the individual’s bag (BR 06). PO Crichlow explained that he is not required to document anything less than a “full frisk,” which is why his BWC was not activated and he did not prepare a stop report, a consent to search form, or a memo book entry.

When interviewed in the parallel IAB investigation, PO Crichlow “stated that no stops were performed at the location and the individuals were told to clear the area because of the shootings that occurred.” (BR 12).

At 3:48-3:54 of the surveillance video, PO Crichlow can be seen squeezing an individual's jacket pockets and patting the front of the individual's pants (BR 02).

NYPD Administrative Guide Procedure 304-10 (BR 23) prohibits officers from “[m]aking, or causing to be made, an inaccurate official statement,” which it defines as “[a] statement that a member of service knows, or should know, includes incorrect material information. There is no intent to deceive, but rather the member’s actions are grossly negligent.” A material fact is “[a] significant fact that is

essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome.”

§ 87(2)(g)

There is no limiting language in the Patrol Guide differentiating a “full frisk” from a more limited frisk that would only involve patting down certain pockets. PO Crichlow should know that squeezing an individual's jacket pockets and patting down their upper legs constitutes a frisk. § 87(2)(g)

Allegation (AA) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Michael Crichlow took law enforcement action based upon actual or perceived age, and race of an individual.

Allegation (AB) Abuse of Authority: On February 16, 2023, at Humboldt Street and Maujer Street in Brooklyn, Police Officer Jesse Trap took law enforcement action based upon actual or perceived age, and race of § 87(2)(b)

§ 87(2)(b) believes officers got out of their car because § 87(2)(b) appears Black and was with multiple Black people walking around (BR 04). It is additionally alleged that PO Crichlow's and PO Trap's stops and frisks of § 87(2)(b) and § 87(2)(b) friend were racially motivated.

PO Crichlow and PO Trap denied being motivated to take any law enforcement action due to § 87(2)(b) and/or § 87(2)(b) friend's perceived race of Black (BR 05-07).

Under NYPD Administrative Guide Procedure 304-17, NYPD members of service are prohibited from initiating a law enforcement action that is “motivated even in part by a person's actual or perceived race, color, ethnicity, or national origin . . . unless the officer's decision is based on a specific and reliable suspect description that includes not just race, age, and gender, but other identifying characteristics or information.” (BR 24).

Race does not have to be the sole, primary, or predominant motivation for the law enforcement action in question in order to substantiate an allegation of racially biased policing. *Village of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 265 (1977) (BR 25); *United States v. City of Yonkers*, 96 F.3d 600, 611-12 (2d Cir. 1996) (BR 26); *Floyd v. City of New York*, 959 F.Supp.2d 540, 571 (S.D.N.Y. 2013) (BR 27). If the preponderance of the evidence establishes that the civilian's race played any role in the officer's decision making, the racial profiling allegation should be substantiated, regardless of any non-discriminatory reasons the officer gives for their actions. *Yonkers*, 96 F.3d at 612 (BR 26); *Raza v. City of New York*, 998 F.Supp.2d 70, 79-80 (E.D.N.Y. 2013) (BR 28); *Bennett v. Health Sys., Inc.*, 92 A.D.3d 29, 40 (1st Dep't 2011) (BR 29). Thus, a law enforcement action that is otherwise legally justified (e.g., a vehicle stop supported by probable cause of a traffic violation or a stop to issue a summons for a pedestrian violation witnessed by the officer) can still constitute racial profiling if the officer was motivated at least in part to take the action by the civilian's actual or perceived race. See *PBA v. City of N.Y.*, 142 A.D.3d 53, 66-67 (1st Dep't 2016) (BR 30); *Raza*, 998 F.Supp.2d at 79 (BR 28); *Floyd*, 959 F.Supp.2d at 667 (BR 27).

Although the investigation focuses its biased-policing analysis specifically on allegations of racial profiling, § 87(2)(b) and his friend's ages are also relevant to the officers' alleged bias. Courts have recognized that “the attempt to bisect a person's identity at the intersection of race and gender often distorts or ignores the particular nature of their experiences' including a specific set of stereotypes and assumptions not shared by all persons of that race or gender.” *Gorzynski v. JetBlue*

Airways Corp., 596 F.3d 93, 110 (2d Cir. 2010) (quoting *Lam v Univ. of Haw.*, 40 F.3d 1551, 1562 (9th Cir. 1994)) (**BR 31**). The fact that § 87(2)(b) and his friends are or could be perceived as Black and young places them in a specific position to be subjected to discrimination in a particular way. See U.S. Equal Employment Opportunity Comm’n, Office of Legal Counsel, Directives Transmittal, EEOC Compliance Manual 3 (Apr. 19, 2006) at 15-IV, <http://www.eeoc.gov/policy/docs/race-color.pdf> (intersectional discrimination occurs when someone faces discrimination “because of the intersection of two or more protected bases.”); Carl James, *Stereotyping and its consequence for racial minority youth*, Race Policy Dialogue Paper, Ontario Human Rights Commission, <https://www.ohrc.on.ca/en/book/export/html/8977> (identifying the stereotype that Black young men are perceived “as likely trouble-makers and law breakers hence the need for them to be targeted by the police”); Jesse B. Semple, *Invisible Man: Black & Male Under Title VII*, 104 Harv. L. Rev. 749, 751 (1990-91) (“Conceptualizing separate over-lapping black and male categories has sometimes interfered with the recognition that certain distinctive features of being black and male serve as the target for discrimination.”) (**BR 32**). Police officers choosing to stop and frisk two young people they perceive to be Black could be rooted in biases less relevant for older Black men or Black women.

Because racially discriminatory intent “is rarely susceptible to direct proof,” it is often established through circumstantial evidence. *Millan-Hernandez v. Barr*, 965 F.3d 140, 148 (2d Cir. 2020) (**BR 33**); *Bennett v. Health Sys., Inc.*, 92 A.D.3d 29, 40-41 (1st Dep’t 2011) (**BR 29**). However, rarely is one piece of circumstantial evidence sufficient on its own to establish racially discriminatory intent. The factfinder must instead consider the “totality of the relevant facts.” *Washington v. Davis*, 426 U.S. 229, 242 (1976) (**BR 34**); *Leblanc-Sternberg v. Fletcher*, 67 F.3d 412, 425 (2d Cir. 1995) (**BR 35**). Examples of circumstantial evidence to consider include, but are not limited to:

- (i) the sequence of events leading up to the law enforcement activities at issue;
- (ii) the officers’ departure from their own and/or their fellow officers’ customary practices during the incident in question;
- (iii) the officers’ violation of law and/or department policies and procedures during the incident in question;
- (iv) the falsity of the officers’ non-discriminatory explanations for their actions;
- (v) selective enforcement of the law against a member of a particular demographic group but not against a member of another demographic group engaged in similar behavior;
- (vi) data showing a pattern of racial disparities in the officers’ enforcement activity over time; and
- (vii) officer history of prior biased acts or similar misconduct committed against persons from the complainant/victim’s racial/ethnic group.

Each of these categories of evidence is discussed below with respect to PO Crichlow and PO Trap.

(i) Sequence of Events Leading Up to the Law Enforcement Activities at Issue

The United States Supreme Court has held that when analyzing claims of racial discrimination, “[t]he specific sequence of events leading up to the challenged decision [] may shed some light on the decisionmaker’s purposes.” *Village of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. at 267 (**BR 25**). Thus, the events leading up to a challenged law enforcement action, in combination with other circumstantial evidence, can support a finding that the officer who took the action was motivated by racial discrimination. See, e.g., *Rodriguez v. Barr*, 943 F.3d 134, 142-43 (2d Cir. 2019); *Ballew v. City of Pasadena*, 2022 U.S. Dist. LEXIS 233385, *21-22 (C.D. Cal. Nov. 23, 2022); *Commonwealth v. Long*, 152 N.E.3d 733, 739-40 (Mass. 2020); *Marshall v. Columbia Lea Reg’l Hosp.*, 345 F.3d 1157, 1169 (10th Cir. 2003)) (**BR 36**). For example, evidence that an officer knew an individual’s race before taking law enforcement action against the individual can support an inference that the

individual's race may have played a role in the officer's decision to take such action. *See Ballew*, 642 F.Supp.3d at 1165; *Long*, 152 N.E.3d at 740 n.9.; *Marshall*, 345 F.3d at 1169 (**BR 36**). In addition, evidence that the officer followed the civilian for an extended period of time prior to stopping them may also suggest an improper discriminatory motive for the stop. *Long*, 152 N.E.3d at 740, n.9; *Marshall*, 345 F.3d at 1169 (**BR 36**).

§ 87(2)(b) described seeing PO Crichlow, PO Trap, and PO Beniquez pass him and his group of friends near the McDonalds on Grand Street, and again at the intersection of Humboldt Street and Maujer Street before they got out of their car to approach the group on their third pass (**BR 04**). One of § 87(2)(b) friends said "are y'all bored?" as the police car was passing.

PO Crichlow, PO Trap, and PO Beniquez testified that on February 16, 2023, they were assigned to school areas in the 90th Precinct around the time of school dismissal because of one or two recent shootings where children had been shot (**BR 05-07**). PO Trap described two recent shootings that happened nearby and shortly before this incident (**BR 05**). All three officers emphasized that this incident took place near Grand Street Campus, where at least one shooting had recently taken place.

PO Crichlow described the officers' assignment as making sure school-aged children did not gather around after school (**BR 06**). Supervisors instructed officers to show presence in the area when the kids were leaving school.

PO Trap testified that while on the school dismissal assignment, he told every group of school-aged children he saw congregating near a school to move toward the train stations (**BR 05**). There is no reason that PO Trap would see a group of young people congregating near the school around this time and not tell them to keep moving. The group of individuals captured in the surveillance video of this incident was congregating, so PO Trap assumes he got out of his car to tell them to keep moving. PO Trap maintains that if he, PO Crichlow, and PO Beniquez had seen that the group in this interaction had not left the area and were still congregating after the officers told them to move along, the officers again would have told the group to keep moving.

PO Crichlow and PO Beniquez testified that the officers circled the block after seeing § 87(2)(b) and his friends (**BR 06-07**). The officers got out of their car the second time they saw the group.

PO Crichlow assumed the group he saw on Maujer Street were school-aged individuals because a school was nearby (**BR 06**). PO Crichlow could not identify any of the individual's races or genders before getting out of the car. PO Crichlow did not recognize any of the individuals and had never seen them before or since this incident. PO Crichlow believed that if one individual had not said something about them being "n-words" and "bored," the officers would have kept driving and not gotten out of the car.

In the phone conversation between § 87(2)(b) and § 87(2)(b) and PO Crichlow, recorded the night of the incident, PO Crichlow said § 87(2)(b) and his friends were sitting on a stoop on someone's property that "they didn't belong on," looking in the door (**BR 03**). The officers went around the block, and when they came back around the block, § 87(2)(b) and his friends were on the sidewalk. § 87(2)(b) friend said "what, are y'all niggas bored?" PO Beniquez also testified to seeing at least part of the group on a stoop before circling the block and getting out of the car after the group had moved to the sidewalk (**BR 07**).

Surveillance video captures this incident from time stamps 3:30-4:45 (**BR 02**). A silver sedan that looks like the unmarked cars the officers were driving passes at time stamps 0:57-1:11 and 1:37-1:45, possibly reflecting the officers passing the group before circling back to the group at time stamp 3:30.

The stoop where some members of the group might have been standing is mostly out of view of the camera, but the bottom of legs can be seen within a gate, and a teenager walks from out of the gate and into frame at 1:16. A young person can be seen sitting on the steps of that stoop at 1:39, and then the young person who had been sitting and another young person walk out of the gate toward the group at 1:44. One of those individuals walks back onto the stoop at 2:05 and then back to the group at 2:48.

All officers described the group as school aged. It is clear from the surveillance video that PO Trap and PO Crichlow could clearly perceive the race of § 87(2)(b) and § 87(2)(b) friend before stopping and frisking them. PO Crichlow's and PO Beniquez's testimony also confirm that the officers observed the group for at least some period of time before deciding to approach the group, and at some point observed at least some of the group on a stoop inside a gate. However, all officers have testified that a reason they initially approached the group was their ongoing general assignment to disperse school-aged children who were congregating near school after school dismissal. PO Trap and PO Beniquez maintained that they were solely motivated to approach the group because of the group's perceived age and their assignment. PO Crichlow describes the primary motivation to approach the group as § 87(2)(b) friend yelling and cursing at the officers.

§ 87(2)(g)
The investigation also determines that PO Crichlow and PO Trap could observe § 87(2)(b) and § 87(2)(b) friend's race before taking law enforcement action, including the stops and frisks. § 87(2)(g)

(ii) Subject Officers' Departure from Customary Practices

A government official's, including a police officer's, departure from their or their agency's customary practices in a given situation can support a finding that those officials acted with racially discriminatory intent. *Village of Arlington Heights*, 429 U.S. at 267 (**BR 25**); *Moore v. MTA*, 999 F.Supp.2d 482, 497-98 (S.D.N.Y. 2013) (**BR 36**); *Doe v. Village of Mamaroneck*, 462 F.Supp.2d 520, 548-49 (S.D.N.Y. 2006) (**BR 36**). For example, "traffic stops initiated by officers whose primary assignment does not involve the enforcement of traffic laws might warrant particular scrutiny" for possible racially discriminatory motive. *Long*, 152 N.E.3d at 740 n.8 (**BR 36**).

All officers testified that they were not instructed to take any law enforcement actions while on the school dismissal assignment and did not end up taking any law enforcement actions during this assignment (**BR 05-07**). PO Crichlow and PO Beniquez described receiving instructions simply to show presence around the school after dismissal (**BR 06-07**). Supervisors instructed PO Trap and PO Beniquez that they should disperse any congregating groups of school-aged children and tell them to keep moving and go home (**BR 05, 07**). If students refused to disperse, PO Beniquez was told she should get out of the vehicle and speak to them (**BR 07**). The goal of the assignment was to prevent shootings by showing presence and dispersing students. Officers were not to conduct any other enforcement activities. PO Trap maintained throughout his testimony that he did not take any law enforcement action during this incident and was merely guiding the group towards the train station when he made contact with § 87(2)(b) (**BR 05**).

The surveillance video shows that PO Beniquez did not take any law enforcement action against § 87(2)(b) or any of his friends (**BR 02**). As discussed above, PO Crichlow took the additional law enforcement action of stopping and frisking § 87(2)(b) friend, and PO Trap took the additional law enforcement actions of asking accusatory questions to the group and stopping, frisking, and pushing § 87(2)(b)

PO Crichlow and PO Trap departed from the customary practice of the school dismissal assignment – the stated goal of which was merely to encourage congregating groups of school-aged individuals to move along – by taking any enforcement action. This departure from customary practices is emphasized by the fact that PO Beniquez took no law enforcement action when approaching the same group of individuals.

(iii) Subject Officers' Violations of Law and NYPD Policy

The fact that a law enforcement action was taken in violation of the law (e.g., arrests, searches, and traffic stops made without probable cause, investigatory stops made without reasonable suspicion, etc.) can, in combination with other circumstantial evidence, support a finding that such action was racially motivated. *Rodriguez v. Barr*, 943 F.3d at 143; *Millan-Hernandez v. Barr*, 965 F.3d at 148 (**BR 33**); *Feliz v. City of N.Y.*, 2022 U.S. Dist. LEXIS 26129, *28 (S.D.N.Y. Feb. 14, 2022) (**BR 36**). Similarly, actions taken in violation of police department policy may suggest that the subject officer acted with a discriminatory purpose. See *Rodriguez*, 943 F.3d at 142; *Long*, 152 N.E.3d at 740 n.12 (**BR 36**).

§ 87(2)(g)

Finally, as discussed in Allegations Q-X, PO Trap and PO Crichlow did not provide their business cards to the individuals stopped and frisked, and failed to record or document this incident in any required manner including through BWC, memo book entries, and/or stop and frisk reports. The failure to record these law enforcement actions is itself probative of a potentially discriminatory motive on the officers' parts because, as several legal authorities have noted, a failure to record one's actions when required by agency policy to do so can support an inference that an alleged discriminator is trying to conceal discrimination or, at the very least, that their non-discriminatory explanations for their actions are not credible. See Twelfth Report of the Independent Monitor, *Floyd v. City of New York*, 08 Civ. 1034, ECF No. 798-1 at 74 (S.D.N.Y. Nov. 30, 2020) (noting that failure to record stops of Black pedestrians "could be obscuring continued stop practices and patterns that violate [] the Equal Protection Clause of the 14th Amendment"³); *Burton v. Freescale Semiconductor, Inc.*, 798 F.3d 222, 240 (5th Cir. 2015) ("[A] lack of contemporaneous documentation coupled with evidence that such documentation should exist" is "circumstantial evidence of pretext"); *United States v. Garcia*, 554 F.Supp.3d 421, 430-32 (E.D.N.Y. 2021) (holding that "failure to activate the body camera is an adverse credibility factor" when weighing a police officer's testimony and that the testimony of NYPD detective who failed to record entry into defendant's mother's apartment on his BWC in violation of NYPD Patrol Guide § 212-123 "failed to sustain [the government's] burden of proof to justify [the] warrantless entry") (**BR 38**).

(iv) Falsity of Subject Officers' Explanation for Their Actions

The falsity of a law enforcement officer's race-neutral explanation for their actions can also support a finding that the officer was trying to conceal a discriminatory motive. *Turkmen v. Hasty*, 789 F.3d 218,

³ The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution prohibits discrimination by governmental agencies and officials. See U.S. Const. Am XIV § 1 (**BR 37**).

256-57 (2d Cir. 2015), *rev'd on other grounds*, 137 S.Ct. 1843 (2017); *Rodriguez v. Barr*, 943 F.3d at 143 (BR 36).

As discussed above, the officers provided reasons to observe and then approach § 87(2)(b) and his friends – including the officers’ assignment to disperse school-aged groups congregating near schools after school dismissal, observing some of § 87(2)(b) friends on a residential stoop inside a gate, and § 87(2)(b) friend calling out to the officers – but no officer provided any explanation for why an officer would take enforcement action, let alone why PO Trap and PO Crichlow would stop and frisk § 87(2)(b) and/or § 87(2)(b) friend. § 87(2)(g)

Similarly, PO Crichlow provided an inaccurate statement by maintaining that he did not conduct a “full frisk” of § 87(2)(b) friend. § 87(2)(g)

(v) Subject Officers’ Selective Enforcement of Laws

The Equal Protection Clause of “the Constitution prohibits selective enforcement of the law based on considerations such as race,” even when there is an objective legal basis (e.g., probable cause) for the law enforcement action taken. *Whren v. United States*, 517 U.S. 806, 813 (1996); *People v. Robinson*, 97 N.Y.2d 341, 351-52 (2001) (BR 36); *Floyd*, 959 F.Supp.2d at 667 (BR 27). An officer taking law enforcement action against a member of a particular demographic group but not against a member of another demographic group engaged in similar behavior therefore can be strong evidence that the action was racially motivated. In *Floyd v. City of New York*, a stop of a Black pedestrian was held to be racially motivated in part because “other non-black individuals were present and presumably behaving no differently than McDonald – yet only McDonald was stopped.” *Floyd*, 959 F.Supp.2d at 633 (BR 27). See also *PBA v. City of N.Y.*, 142 A.D.3d at 66-67 (BR 30); *Miller-El v. Dretke*, 545 U.S. 231, 241 (2005) (“If a prosecutor’s proffered reason for striking a black panelist applies just as well to an otherwise-similar nonblack who is permitted to serve, that is evidence tending to prove purposeful discrimination.”) (BR 36).

In this case, all officers testified to approaching many groups of school-aged civilians near Grand Street Campus to tell them not to congregate near the school around the time of this incident (BR 05-07). The officers testified that they did not take law enforcement actions against these groups and merely told them to move along. And yet, PO Trap and PO Crichlow took additional enforcement actions against § 87(2)(b) and one of § 87(2)(b) friends.

However, at least four other individuals who appear to be young and Black on the surveillance video were with § 87(2)(b) and § 87(2)(b) friend and were not touched by officers or otherwise subject to enforcement action (BR 02). The investigation also notes that § 87(2)(b) School § 87(2)(b) – is 96.4% minority enrollment with 63.1% of the population identified as Hispanic and 24.1% of the population identified as Black (BR 39). These demographics imply that other groups approached by PO Trap and PO Crichlow on this assignment would have also included many Black and Black-Hispanic young people. There is no evidence that PO Trap or PO Crichlow took enforcement action against any individuals other than § 87(2)(b) and § 87(2)(b) friend. However, the investigation acknowledges that the lack of documentation of the enforcement actions taken in this incident, along with PO Trap’s and PO Crichlow’s testimony that they were not required to document any actions captured by the surveillance video, indicates that other enforcement actions could have been taken during this assignment but never documented.

(vi) Data on Subject Officers' Patterns of Racially Disparate Enforcement Activity

Data showing a pattern of racial disparities in a police officer's enforcement activity over time are widely recognized as important circumstantial evidence to consider in a "totality of the relevant facts" analysis of an allegation of racial profiling against that officer. *See, e.g., Marshall*, 345 F.3d at 1168; *Anderson v. Cornejo*, 284 F.Supp.2d 1008, 1050 (N.D. Ill. 2003); *U.S. v. Hare*, 308 F.Supp.2d 955, 992 (D. Neb. 2004); *Johnson v. Holmes*, 782 Fed. Appx. 269, 281-82 (4th Cir. 2019); *Long*, 152 N.E.3d at 739-40 (**BR 36**). For example, data which shows that the following factors, when combined with other pieces of circumstantial evidence, support a finding that the subject officer acted with discriminatory intent during the specific stop under investigation:

- (a) the racial composition of drivers stopped for traffic violations by the subject officer in the years/months preceding the incident in question varied significantly from the racial composition of the residential population near the roadways patrolled by that officer, *Ballew*, 2022 U.S. Dist. LEXIS 233385 at *22-25; *Long*, 152 N.E.3d at 745-46 (**BR 36**);
- (b) the racial composition of drivers stopped by the subject officer varied significantly from the racial composition of drivers stopped by other officers working in similar assignments and locations and at similar times of day, *Johnson*, 782 Fed. Appx. at 281-82; *United States v. Mesa-Roche*, 288 F.Supp.2d 1172, 1188-90 (D. Kan. 2003); *Commonwealth v. Lora*, 886 N.E.2d 688, 703 n.32 (Mass. 2008) (**BR 36**); Greg Ridgeway and John MacDonald, *Methods for Assessing Racially Biased Policing* 13-18 (RAND Corp. 2011)⁴ available at <https://www.rand.org/pubs/reprints/RP1427.html>; or
- (c) the subject officer's stops of civilians from the complainant's racial group were more often intrusive (i.e., involved frisks, searches, uses of force, etc.) than were the officer's stops of civilians from other racial groups, *Anderson v. Cornejo*, 284 F.Supp.2d at 1055 (**BR 36**).

The CCRB's Racial Profiling/Biased Policing Investigations (RPBP) Unit's Chief Data Scientist and Data Analyst examined PO Trap's and PO Crichlow's stop report data from the year preceding this incident – as well as the stop data for other members of their command – in addition to PO Trap's TRI report data (**BR 50**). However, PO Crichlow completed only five self-initiated stop reports and PO Trap completed only one self-initiated stop report during the year preceding this incident. Similarly, the investigation only received data regarding six TRI reports for PO Trap from the year preceding this incident. These low numbers of reports do not provide the investigation with enough information to assess the racial compositions of the subject officers' self-initiated stops nor whether the reasons for or outcomes of their self-initiated stops vary by race. It is possible that additional years of data would provide enough information to make such assessments.

(vii) Subject Officers' Histories of Prior Biased and/or Similar Misconduct against Black Civilians

⁴ Dr. Ridgeway is the researcher whom the NYPD retained to investigate racial bias in its stop, question, and frisk practices in 2007. *See* Greg Ridgeway, *Analysis of Racial Disparities in the New York Police Department's Stop, Question, and Frisk Practices* (RAND Corp. 2007), available at https://www.rand.org/pubs/technical_reports/TR534.html.

“Proof of prior discriminatory conduct” by an alleged discriminator against members of the complainant’s demographic group “is relevant to their motive and intent at the time of the acts at issue here,” *Open Housing Ctr v. Kings Highway Realty*, 1993 U.S. Dist. LEXIS 15927, *18-21 (E.D.N.Y. Nov. 8, 1993), especially if the prior conduct “is similar in nature to that experienced by the [complainant].” *Zubulake v. UBS Warburg, LLC*, 382 F.Supp.2d 536, 544. (S.D.N.Y. 2005); *Todaro v. Siegel, Fenchel & Peddy, P.C.*, 2008 U.S. Dist. LEXIS 17894, *13 (S.D.N.Y. Mar. 3, 2008) (**BR 36**).

The CCRB requested and received from the NYPD PO Trap’s and PO Crichlow’s IAB profiling and EEO complaint histories, lawsuit histories, and Central Personnel Indexes (CPI) (**BR 12, 40-44**). The investigation also reviewed each officer’s CCRB complaint history.

PO Crichlow has been named in three lawsuits and PO Trap has been named in one lawsuit, but the investigation did not receive any additional information about the underlying facts of these lawsuits (**BR 42**). The NYPD indicated that their search for prior EEO complaints made against the subject officers returned no results. (**BR 40**).

PO Crichlow was named in two previous IAB profiling or biased policing complaints, but one log § 87(2)(g) does not include the race of the victim and the investigation determined that PO Crichlow was not present (**BR 41**). The other IAB log for PO Crichlow § 87(2)(g) includes an allegation that officers were targeting Black and Hispanic motorists, but the complaint was unsubstantiated and PO Crichlow denied stopping the complainant. PO Crichlow’s CPI did not include anything of note other than the failure to activate his BWC and two instances of an improper memo book entry, which may overlap with PO Crichlow’s CCRB history described below.

PO Trap was named in one prior IAB log § 87(2)(g) but no documentation regarding this IAB log was provided to the investigation despite follow up requests (**BR 41**). PO Trap’s CPI includes pending charges for force in three cases, as well as the failure to activate his BWC and incomplete or improper memo book entries. PO Trap was placed on Level I discipline monitoring in 2022 after IAB substantiated excessive force claims on October 29, 2019, and in a confidential investigation on October 25, 2019.

PO Crichlow has had six allegations substantiated against him in three other CCRB complaints and has an additional CCRB complaint pending (**BR 43**). Of the three cases involving substantiated allegations, the victims were a Hispanic male 33-year-old, a Hispanic 51-year-old male, and a Black 36-year-old male. The substantiated allegations against PO Crichlow include improper uses of his BWC, failures to prepare memo book entries, and the failure to provide an RTKA card. The pending case against PO Crichlow also includes an alleged search of a person and involves a Hispanic 28-year-old male.

PO Trap has had 12 allegations substantiated against him in five other CCRB complaints. Two of these cases involved white victims and include multiple substantiated allegations of excessive force and multiple substantiated allegations of offensive language based on perceived mental disability (**BR 44**). The three other cases are more relevant to this investigation and involve: (1) substantiated allegations § 87(2)(g), § 87(4-b) of physical force, use of pepper spray, and the failure to prepare a TRI with a Black 16-year-old female victim; (2) substantiated allegations of physical force and discourtesy against a 28-year-old Black male, and (3) a substantiated allegation of discourtesy § 87(2)(g), § 87(4-b) with a 23-year-old Black male victim (**BR 45**).

PO Crichlow does not appear to have a history of prior bias or a history of similar misconduct against Black civilians. Although PO Trap’s history includes important and relevant instances of misconduct, it is not “extensive” or “numerous,” especially considering his additional history of serious

substantiated misconduct involving white victims. *See Marshall*, 345 F.3d at 1170-71 (holding that evidence of “extensive alleged misconduct by [defendant police officer] during his prior employment as a police officer in [another police department],” including numerous improper arrests of Black and Hispanic civilians, could raise an inference that his traffic stop and arrest of plaintiff were racially discriminatory) (**BR 36**); *Polk v. Holmes*, 2016 U.S. Dist. LEXIS 152914, * 9 (W.D. Va. Nov. 3, 2016); (fact that “numerous, similar complaints of unlawful treatment had been lodged by other African-American citizens” against defendant police officer supported plausibility of plaintiff’s claim that the officer’s stop and search of his vehicle was racially motivated) (**BR 47**).

(viii) Summary of Evidence and Recommended Disposition

There is some important circumstantial evidence of bias in this case, including evidence that PO Trap and PO Crichlow: (1) perceived § 87(2)(b) and § 87(2)(b) friend to be young and Black when they stopped and frisked them, (2) departed from the customary practice of officers on the school dismissal assignment when they took law enforcement action in excess of asking groups not to congregate near the school, (3) provided untruthful statements regarding the law enforcement actions they took against § 87(2)(b) and § 87(2)(b) friend to deny or downplay the severity of their actions; (4) violated the law and several department policies by questioning, stopping, frisking, and using force against § 87(2)(b) and § 87(2)(b) friend; and (5) failed to document this incident in any required manner. In addition, PO Trap’s CCRB history and CPI raise concerns of a possible pattern of misconduct, including against young Black people.

However, PO Crichlow and PO Trap do not have a history of prior bias or an extensive history of similar misconduct against Black civilians. In addition, there is no evidence of selective enforcement here, and the investigation notes that the only factor that sets § 87(2)(b) and § 87(2)(b) friend who was frisked by PO Crichlow apart from their other friends is that – according to both § 87(2)(b) and the officers – these were the two individuals who were cursing at the officers. The act of cursing at officers does not provide any kind of justification for frisks or the other law enforcement actions taken here, and in fact could raise concerns about possible violations of these individuals’ First Amendment rights to free speech, but it does provide a non-discriminatory explanation for PO Trap’s and PO Crichlow’s unlawful and disparate treatment of these two individuals. Finally, PO Crichlow, PO Trap, and PO Beniquez were specifically directed to interact with young people who were congregating near § 87(2)(b) – a school with a majority Hispanic and Black population – on the school dismissal assignment. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)

- PO Crichlow has been a member of service for 8 years and has been a subject in 13 other CCRB complaints and 35 other allegations, of which six were substantiated:
 - 201906121 involved substantiated allegations § 87(2)(g), § 87(4-b) [REDACTED] The Board recommended Instructions and the NYPD imposed Instructions. The CV in this case was a 36-year-old Black male.
 - 201909838 involved substantiated allegations § 87(2)(g), § 87(4-b) [REDACTED] against PO Crichlow. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A. The CV in this case was a 33-year-old Hispanic male.
 - § 87(2)(g), § 87(4-b) [REDACTED]
 - § 87(2)(g) [REDACTED]
- PO Trap has been a member of service for 8 years and has been a subject in 20 other CCRB complaints and 59 other allegations, of which 12 were substantiated:
 - 201800251 involved substantiated allegations § 87(2)(g), § 87(4-b) [REDACTED] against PO Trap. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B. The CV in this case is a 16-year-old Black female.
 - § 87(2)(g) [REDACTED]
 - § 87(2)(g) [REDACTED]
 - § 87(2)(g) [REDACTED]
 - § 87(2)(g) [REDACTED]
 - 202202592 involved a substantiated allegation of discourtesy § 87(2)(g), § 87(4-b) [REDACTED] against PO Trap. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A (1 vacation day). The CV in this case is a 23-year-old Black male.
- PO Beniquez has been a member of service for 8 years and has been a subject in six other CCRB complaints and 13 other allegations, of which four were substantiated:
 - 202101308 involved a substantiated allegation of the failure to provide an RTKA card § 87(2)(g), § 87(4-b) [REDACTED] against PO Beniquez. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A. The CV in this case is a 42-year-old male whose race is listed as ‘other.’
 - 202101518 involved a substantiated allegation of the failure to provide an RTKA card § 87(2)(g), § 87(4-b) [REDACTED] against PO Beniquez. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A. The CV in this case is a 27-year-old male. Their race was not provided.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation because it was investigated by the Racial Profiling/Biased Policing Investigations Unit.

- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, false imprisonment, harassment, unlawful detention, battery, unlawful search and seizure, intentional infliction of serious emotional distress and harm, and deprivation of constitutional and civil rights of § 87(2)(b) (BR 48). The Notice of Claim also claims the officers caused § 87(2)(b) to sustain physical injuries and/or had pre-existing condition exacerbated, reinjured and aggravated. § 87(2)(b) is seeking an unspecified amount of money as redress. The New York City Comptroller did not indicate whether a 50H hearing had been scheduled.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Squad No.: Bias Squad #2

Investigator:	<u>/s/ Casey Graetz</u> Signature	<u>Inv. Atty. Casey Graetz</u> Print Title & Name	<u>4/22/2024</u> Date
Squad Leader:	<u>Tessa Yesselman</u> Signature	<u>IM Tessa Yesselman</u> Print Title & Name	<u>05/09/2024</u> Date
Reviewer:	<u>Bianca Victoria Scott</u> Signature	<u>Bianca Victoria Scott, Esq.</u> Print Title & Name	<u>05/10/2024</u> Date